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SUBJECT: VIETNAM: STOPPING SATELLITE SIGNAL PIRACY BY
STATE-OWNED ENTERPRISES

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1. (SBU) Summary. Industry representatives have now confirmed the long held suspicion that unauthorized television signals from major foreign right holders are being distributed in Vietnam and identified several of the culprits. Vietnam Electronic & Informational Corporation, apparently a state-owned company, is openly selling unauthorized overspill signals from other markets. In addition, Vietnam Television Corporation (VTC) the state-owned digital terrestrial platform with an estimated 200,000 subscribers around the country is pirating ESPN Star Sports (ESS), Discovery and likely several other channels. These actions appear to violate Vietnam's commitments to protect broadcast works as the original work under the Berne Convention as well as the Bilateral Trade Agreement, which also prohibits selling of unauthorized satellite signals. Once Washington agencies have confirmed this interpretation, we intend to write to the Government of Vietnam about this issue. It may also be useful to raise during the meetings in Washington with Vietnam during the week of June 13. End Summary.

Cable TV in Vietnam

2. (SBU) Representatives from Star, Time Warner and Discovery, the Motion Picture Association and Cable Broadcast Association have now confirmed the long-held suspicion that unauthorized television signals from major foreign right holders are being distributed in Vietnam. Determining who is a legitimate distributor of foreign television signals in Vietnam is difficult because each foreign firm sells the rights to its signals separately. Several Vietnam cable entities have the licit rights to transmit signals within Vietnam through their very limited cable television systems. In addition, foreign channels are sold directly to distributors, which resell them to what are termed broadcasters. These broadcasters can be hotels, apartment buildings or large firms that distribute the authorized signals internally.

3. (SBU) Distribution to the home market is even more complex. While some cable broadcasters have licit rights to programming, the cable network is quite limited so satellite dishes are used to receive scrambled signals, which are then decoded through boxes. One firm has said that only 42 individual homes in Vietnam have the rights to licit signals of certain of its channels. Most homes receiving satellite signals get a decoder box and a package of channels from another market such as Thailand, the Philippines or China. While the decoder and smartcard may be licit in the original market, they are not in Vietnam. Industry representatives call these unauthorized overspill signals. Were these boxes licit, several would be required to access the same group of channels since Star and Time Warner do not sell their programs as a package for transmission by satellite to individual homes.

Satellite Piracy in Vietnam

4. (SBU) Right holders for several television and movie entities (i.e., Star, Time Warner, and Discovery and others) have confirmed to ECON/C that their signals are being pirated in Vietnam as follows. Vietnam Electronic & Informational Corporation, a state-owned company, is openly selling unauthorized overspill signals from other markets. In addition, Vietnam Television Corporation (VTC) the state-owned digital terrestrial platform with an estimated 200,000

subscribers around the country is pirating ESPN Star Sports (ESS), Discovery and likely several other channels. ESS has sent VTC cease and desist letters in the past, which they have ignored. Vietnam Cable Television (VCTV), which is also a state owned company but not related to VTC, is authorized by Star and does not appear to be pirating signals.

Legal Issues

15. (SBU) These forms of piracy appear to violate the Berne Convention and the Bilateral Trade Agreement, but we would appreciate confirmation from Washington experts. As a member of the Berne Convention, Vietnam is required to protect "cinematographic works" as "an original work." The World Intellectual Property Rights Organization guidance is that cinematographic works enjoy the same rights as the authors of (other) original works, including broadcasting. In addition, the Bilateral Trade Agreement requires Vietnam to give the same protection as the Berne Convention, defines encrypted program-carrying satellite signals, and includes prohibitions against "willful receipt or further distribution of an encrypted program-carrying satellite signal that has been decoded without the authorization of the lawful distributor of the signal."

Next Steps

16. (SBU) Industry representatives are in the process of sending a letter to the Ministry of Posts and Telematics (MPT), which is responsible for broadcasting and satellite signals in Vietnam including for the SOEs involved. We would appreciate Washington experts confirming the interpretation in para 5. We intend to draft a letter to MPT and will copy it to the Ministry of Trade and the Ministry of Culture. The upcoming discussions with Vietnam in Washington at the Bilateral Trade Agreement Joint Committee Senior Meeting or the World Trade Organization Bilateral Market Access Talks (both scheduled the week of June 13) offer an opportunity to raise this issue with the Government of Vietnam.

MARINE